



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MOP - 175756

PRELIMINARY RECITALS

Pursuant to a petition filed on July 22, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services regarding Medical Assistance (MA), a hearing was held on September 14, 2016, by telephone. A hearing originally scheduled for August 18, 2016, was rescheduled at petitioner's request.

The issue for determination is whether the petitioner is liable for an overpayment of MA benefits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: Olivia Cherry
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:
Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.

2. Petitioner was an ongoing MA recipient in 2013. In May of 2013, petitioner commenced employment with [REDACTED]. This employment was not reported by petitioner timely; Renewals submitted in January, 2014, and April, 2015, omitted this disclosure.
3. The respondent determined that petitioner was overpaid MA benefits due to a failure on his part to timely notify the respondent of his new and continuing employment income. The following claims were established:

Claim No.	Period	Amount
[REDACTED]	6/1/2013-6/30/2013	\$117.66
[REDACTED]	4/1/2014-10/31/2014	\$901.28
[REDACTED]	7/1/2013-7/31/2013	\$104.90
[REDACTED]	8/1/2013-11/30/2013	\$365.28
[REDACTED]	1/1/2014-2/28/2014	\$257.75

4. The respondent sent written notices to petitioner identifying the overpayments on June 15, 2016.

DISCUSSION

The Department seeks to recover \$1,447.00 in BadgerCare Plus benefits paid on the petitioner's behalf from March 1, 2015 to June 30, 2015. BadgerCare Plus is Wisconsin's medical assistance program for those who are not elderly or disabled. Adults are ineligible if their household income exceeds the federal poverty level. Wis. Stat. § 49.471(4)(a). The department may recover any overpayment of BadgerCare Plus that occurs because of a "misstatement or omission of fact by a person supplying information in an application..." Wis. Stat. § 49.497(1). Overpayments caused by agency error are not recoverable.

At hearing, the county worker proved with a preponderance of the evidence that an overpayment occurred because petitioner's income was not correctly reported, and therefore not correctly budgeted to determine the household's MA benefits.

The only question is whether it was caused by agency error or client error. The respondent asserts client error, and argues that the income should have been reported within 10 days of when he started in May of 2013. If reported timely, all healthcare benefits would have closed starting June 1, 2013.

The petitioner testified that he does not recall why or how this went unreported, and stated that he thought that he sent in correct paperwork. However, the two renewals that occurred subsequent to commencement of his employment fail to corroborate any attempt to report this income. As a result, the petitioner did not accurately report his earned income, receiving far more in monthly income than was being budgeted in the period of June, 2013 – October, 2014.

Under this fact pattern, the Department has produced evidence in excess of the preponderance of the evidence standard demonstrating that the petitioner was overpaid \$1,746.87 of MA benefits in the test period due to a client error in failing to report accurate income for a prolonged period of time. This overpayment determination must be sustained.

CONCLUSIONS OF LAW

That the Department correctly determined that the petitioner was overpaid \$1,746.87 of MA benefits in the period of June, 2013 – October, 2014, due to client error.

THEREFORE, it is

ORDERED

That the petition for review herein be, and the same hereby is, dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 17th day of October, 2016

\s _____
Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 17, 2016.

Brown County Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability